

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION**

DUANE CHAPMAN,

Plaintiff,

vs.

GOOGLE LLC,

Defendant.

5:22- CV -00027

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, Google LLC (Google) files this Notice of Removal to remove the action titled *Duane Chapman v. Google, Inc.*, Docket No. 22-224, from the Shenandoah County General District Court to the United States District Court for the Western District of Virginia, Harrisonburg Division. This Court has original jurisdiction under 28 U.S.C. § 1331 because Plaintiff's Warrant in Debt alleges unauthorized use of Plaintiff's trademark, which is a federal question governed by the Lanham Act, 15 U.S.C. § 1051 *et seq.*

In support of this Notice of Removal, Google respectfully states as follows:

A. Background

1. Pursuant to 28 U.S.C. § 1446(a), true and correct copies of all process, pleadings, and orders served upon Google in the state court action are attached hereto at **Exhibit A**.

2. In his state court complaint, which is in the form of a Warrant in Debt, *see* Va. Code § 16.1-79, Plaintiff alleges Google owes him a debt for “[p]ublishing Plaintiff’s ‘Dog the Bounty Hunter’ trademark and his videos without his authorization.” Ex. A, Warrant in Debt.

3. No other allegations are contained in or attached to the Warrant in Debt. *See id.*

4. Google has not filed any notice of appearance, motions, or answering statements in the state court action.

5. In removing this action, Google denies that it has violated any laws and further denies that it owes Plaintiff any debts, damages, or other relief whether in law or equity.

B. Federal Question Jurisdiction

6. Plaintiff asserts a single claim in his Warrant in Debt: unauthorized publication of Plaintiff’s trademark.

7. Trademark registration and infringement are a matter of federal law governed by the Lanham Act, 15 U.S.C. § 1051 *et seq.*

8. Because Plaintiff’s claim arises under federal law, this Court has original jurisdiction pursuant to 28 U.S.C. § 1331. Removal to this Court is proper under 28 U.S.C. § 1441(a).

C. Timeliness of Removal and Non-Waiver of Defenses

9. It appears from the face of the Warrant in Debt that Plaintiff filed his claim in the Shenandoah County General District Court on April 5, 2022, at which time the Deputy Clerk assigned it docket number 22-224 and set a hearing date of May 16, 2022.

10. Removal of this action is timely. While Google was never properly served with a copy of the Warrant in Debt in accordance with Va. Code § 16.1-80, on April 11, 2022, Google's registered agent received a copy post-marked April 7, 2022. Under Virginia law, process which has reached the person to whom it is directed within the time prescribed by law shall be sufficient although not served or accepted as provided in Virginia Code. Va. Code § 8.01-288. This Notice of Removal is being filed within 30 days after receipt of the Warrant in Debt by Google. *See* 28 U.S.C. § 1446(b)(1).

11. By removing Plaintiff's state court action to this Court, Google does not waive, and expressly reserves, all rights and remedies including any defenses and counterclaims available to it.

D. Propriety of Removal to This Court

12. The Shenandoah General District Court is located within the Western District of Virginia, Harrisonburg Division. Pursuant to 28 U.S.C. § 1441(a), Plaintiff's state court action is properly removed to this Court.

E. Notice to State Court and Plaintiff

13. Pursuant to 28 U.S.C. § 1446(d), Google will promptly provide written notice to the Shenandoah General District Court by filing a copy of this Notice of Removal and Exhibit A thereto. Google will also promptly serve Plaintiff's attorney with written notice of the filing of this Notice of Removal.

CONCLUSION

For the foregoing reasons, Google respectfully removes this action to the United States District Court for the Western District of Virginia, Harrisonburg Division, and respectfully requests that no further proceedings be held in this action in the Shenandoah County General District Court.

DATED: May 9, 2022

s/ Brenna Duncan

Brenna D. Duncan, Va. Bar No. 89133

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Counsel for Google LLC

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Notice of Removal was served on the following recipient on this 9th day of May 2022 by placing a true and correct copy of same in the U.S. mail, postage prepaid:

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Attorney for Plaintiff

/s/ Brenna Duncan
Brenna D. Duncan